IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3664 OF 2003

Tanajirao Rangrao Patil & Anr..... .... Petitioners.
V/s
Kolhapur Agricultural Produce Market Committee,
Kolhapur & Ors.... ....
Respondents.

Mr.Dilip Taur i/by YKS Legal, Adv. For the petitioners.

Mr.C.R.Sonawane, AGP for Respondent Nos. 2 and 3.

None for Respondent No.1.

WITH

WRIT PETITION NO. 7629 OF 2003

Sahebrao Madhavrao Satkar... ...
Petitioner
V/s
State & Ors.... ....
Respondents.

\Mr.G.S.Godbole, Adv. For the petitioner.

Mr.C.R.Sonawane, AGP for Respondent Nos. 2 and 3.

None for Respondent No.1.

CORAM: V.G.PALSHIKAR, Ag. C.J.
AND
SMT.NISHITA MHATRE, J.
13th February, 2006

ORAL JUDGMENT: (Per Ag. C.J.)

By these two petitions the petitioners have challenged the constitutional validity of the Maharashtra Act XI of 2003 amending the

provisions of the Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963 in some aspects. Since the contentions raised are identical and submissions are also made together we will dispose of both these petitions by this common order.

2. The petitioners in Writ Petition No.3664 of 2003 were elected from certain specified categories mentioned in section 13 of the Kolhapur Agricultural Market Committee and their elections were prior to the amendment to that section by the enactment which is impugned in this petition. Similar is the case of the petitioner in Writ Petition No.7629 of 2003. The petitioners have lost their right to vote as members of the Committee though they are duly elected and that according to them is violation of their statutory right, done arbitrarily and therefore liable to be set aside. The facts are not in dispute.

3. It would be necessary in order squarely deal with the contentions raised on behalf of the petitioners regarding validity and the enactment of Maharashtra Act XI of 2003 called The Maharashtra Agricultural Produce Marketing (Regulation) Act hereinafter referred as “the Amending Act”. We will consider the enactment itself and the subsequent amendments thereto to ascertain whether amendments in any manner are illegal. The Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963, hereinafter referred to as “the Act” was legislated in the year 1963-64 to regulate marketing of agricultural

and certain other produce in the area market to be established there for in the State. It was also legislated to confer powers upon the Market Committees which would be constituted in connection and for the purposes of establishment of such markets and market funds for carrying out the purpose of the enactment. It was considered expedient to regulate marketing of agricultural and certain other produces in market area to bring unanimity in marketing of agricultural produce which should inure to the benefit of the manufacturer i.e. the agriculturist. It was intended to regulate the middle men and to see that in marketing of the agricultural produce maximum possible benefits got to the agriculturist and not to the middle men.

4. The Act extended to the whole of State of Maharashtra. It provided for the constitution of Agricultural Market Produce Committees in various regions of the State. The regulation was to be by notification in the official gazette declaring the intention of the State to regulate marketing of such agricultural produce as is mentioned in the notification over the area mentioned in the notification. It also provided for establishment of markets.

5. The Act provided for regulation of marketing, regulation of licenses of persons operating in the market area notified functioning as Traders, Commission Agents, Brokers, Processors, Weighmen, Warehouseman, measurer or any other capacity connected with or in

relation to the marketing agricultural produce in the notified area. Power to grant licenses for that purpose was given to the Market Committee duly established under the Act. The power to cancel or suspend the licenses granted earlier was also conferred on the Committee.

6. Section 13 of the Act provided constitution of the Market Committees for each notified area. Generally the scheme was there should be one Agricultural Produce Committee for one Taluka of the District. However this was not a rigid rule but was flexible arrangement depending upon need of a particular area. Section 13 provided for constitution of the Market Committees which was to constitute of the following :

(a) Thirteen agriculturists residing in the market area;

(b) Nine persons shall be elected from amongst the members of the Managing Committee of the Agricultural Societies, Cooperative Societies existing in the market area;

(c) Four persons to be elected from specified category by members of the Village Panchayat functioning in the market area.

(d) Two persons shall be elected by Traders and Commission Agents;

(e) One member shall be elected by hamals and weigh men operating in market area;

(f) One member shall be the Chairman of the Cooperative Society doing business of processing or marketing of agricultural produce in the market area or in his absence a representative of the Society;

(g) One member shall be Chairman of the Panchayat Samiti within the jurisdiction of which major portion thereof is situated or elected representative by the Panchayat Samiti and

(h) then One shall be the President or Sarpanch of the local authority whose jurisdiction principal market is situated;

(i) Deputy Registrar of Cooperative Societies of that district or his representative who shall have no right to vote;

(j) the Assistant Cotton Exchange Officer or his nominee and none of whom shall have right to vote.

By necessary implication therefore except the last two categories all other categories of members had right to vote.

7. The Amending Act XI of 2003 amended this section 13 and provided that categories mentioned by sub-section (c), (d) and (e) of clause (1) of section 13 shall have no right to vote after the date of amendment became the law and it is this amendment which is challenged in these petitions.

8. Following contentions were advanced by the learned counsel appearing on behalf of the petitioners. By amending section 13(1) of

the Act voting rights conferred on persons covered by sub-clauses (c), (d) and (e) of clause (1) of section 13 have been taken away. Such taking away of right to vote is arbitrary with the objects of the Act and therefore violative of Article 14 of the Constitution. Secondly, it was contended that all the members mentioned in section 13(1) of the Act are equally or unequally situated persons and they are therefore liable to be treated as equals. By denying right to vote to persons covered by sub-clauses (c), (d) and (e) of section 13 is treating equals as unequals. Consequently it violates the provisions of Article 14 of the Constitution. The contention in nutshell being that all categories mentioned in section 13(1) of the Act are members of the Marketing Committee and therefore are equals. Keeping voting rights in relation to some and taking away in relation to some others is arbitrary action having no reasonable nexus with the objects of the Act viz. Regulation of the Marketing Act in the specified area. Thirdly, it was contended that the enactment cannot have retrospective effect and it cannot therefore take away the voting right of persons who have been elected prior to the date on which the amendment came into force. It is given only when necessitated to remove defect already existing. Such is not the case here and therefore it cannot have retrospective operation. For these reasons it was contended that the amendment is unsustainable and is liable to be quashed. We will meet these

contentions one by one.

9. The contention that voting right cannot be taken away by subsequent amendment is not acceptable to us for the reason that principles of law in this regard are well established. Right to vote is always a creature of statute and the statute which confers such right to vote on an individual or body always has the right to take away or withdraw the right to vote. It can be assailed only in the event of taking away of the right is assailed as malafide. That being not the allegations in these petitions we have to consider the position as it stands today. We must see the scheme of the Act and the reason for which a Committee is established under section 13 of the Act. We have already noted the object of the Act and it is to regulate marketing of agricultural produce in notified market area. A Management Committee of the Agricultural Produce Market established under the Act has therefore the business to manage the Committee in the areas specified and notified in such a way that the agriculturists of those areas would get maximum possible benefit of the marketing agricultural produce in the area. It is the function of the Committee to see that the functionaries under the Act or the Rules thereunder do not act in any manner prejudicial to the interest of the agriculturists for protection of which the Act was enacted. From the Scheme of the Act it will be seen that vast powers have been given to the Committee for

controlling the business activities of Traders, Weighmen, Brokers, etc. dealing with in agricultural produce. Anybody can do so without prior licences of the Committee and the Licence can be canceled for reasons mentioned in the Act. A broad based Committee to carry out the purpose of the Act was therefore envisaged and established through the provisions of section 13 of the Act. We have noted above the various kinds of representatives that form the Committee for a specified notified area. The categories represented diverse interests of agriculturists for protection of which Committee is established.

10. Right to vote to the members of the Agricultural Produce Marketing Committee was given generally to all by section 13 of the Act. During the working of the Act in the past several years it was observed that some of the persons belonging to some of the categories need not have a voting right as it can lead to undemocratic results and therefore the amending act was introduced.

11. The contention therefore is that this taking away of voting rights is arbitrary exercise of powers and therefore violative of article 14 consequently requires to be quashed. The submission in effect is that there is no reasonable nexus between the object to be achieved by doing away with the voting rights of some categories while retaining the same for others and therefore it is liable to be struck down. It will be seen that the basic purpose of the act is to regulate marketing of

agricultural produce in the State of Maharashtra. Consequently it is the agriculture producer or agriculturist who is mainly concerned with the implementation of these provisions which regulate the marketing of his produce. For proper implementation of the scheme of the act it is absolutely necessary that the agriculturist members of the Committee are able to function dispassionately and without fear or favour. A right to vote to persons covered by Section 13(1)(c), (d) and (e) can have this effect and it would take away the very purpose of regulating market of agriculture produce accordingly the interest of the agricultural producers/agriculturists will be defeated. All the three clauses are representative in nature and in their own field guide the Society and protect the interest of the agriculturists. Their role therefore basically is that of the advisors and therefore by the amending act it is provided that they can participate and discuss in the meeting but cannot vote.

12. It is an established canon of law that right to vote is creature of the statute. In fact elections the manner in which they are to be held, who can vote, where he can vote, what shall be the period etc. are all rights which flow from the statute which provide for such elections. A statute which can provide for the right to vote can therefore also provide the right to take away such vote. There is therefore nothing unreasonable or arbitrary in taking away right to vote of these guiding

authorities. The purpose of the act can be better achieved by permitting free vote to the members/agriculturists after they have listened the advice from the representatives mentioned in clauses (c), (d) and (e). It is pertinent to note that no injury of any kind would be caused by denying right to vote to all these persons. In fact the effect of their voting in a particular manner may result in undemocratic decision and therefore they are kept away from the voting aspect of the Committee. No right of the society which they represent or body which they represent is in any manner hurt. It cannot in the circumstances be said that the action of doing away with the right to vote by amending act is in any manner arbitrary.

13. Then it was contended that by taking away voting rights of the categories covered by clauses (c), (d) and (e) equals have been treated unequally and therefore the intent of Article 14 is violated. All categories mentioned in section 13 are various constituents of the Marketing Committee; except three now excluded all others have voting rights. This exclusion therefore amounts to treating them unequally with others who according to the petitioners are equal. We are unable to accept this contention for the simple reason that all the categories mentioned in section 13(1) are not equals. Merely because they become members of the Agricultural Produce Committee it cannot

be said that they are equals. For example an agriculturist cannot be equated with the Chairman of Processing Cooperative Society or Chairman of Panchayat Samiti or President of local authority. By no stretch of imagination the President of municipality or Chairman of Panchayat Samiti or even Sarpanch is equal to an agriculturist residing in that village. On face of it therefore the contention is liable to be rejected. Apart from that even if they are assumed to be equals there can be classification or categorization amongst equals and if such categorization is reasonable with the object of the act it can be done as has been done by amending act. These three categories consist of heads of certain organizations or local bodies and Governments within whose jurisdiction the Committee is to function. They are there to aid and advise the members of the Committee. Their right to advise is not taken away, their right to participate is not taken away. All that has been taken away is their right to vote which if exercised in a particular manner may have influence for proper implementation of the act.

14. It was then contended that the enactment cannot have retrospective effect. This submission is obviously baseless. A right to vote is taken away only from the date of amendment of the act and voting done by persons covered by amendment is not in any manner touched. It cannot therefore be said that it has retrospective effect. In the result therefore there is no substance in these petitions. The

amendment act is valid. The petitions are therefore liable to be dismissed and they are accordingly so dismissed. Interim orders, if any, stand vacated. Civil Applications, if any, pending are disposed of.